

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

The Bank of New York Mellon,

Plaintiff,

-against-

Samarco Mineração S.A.,

Defendant.

Case No. 20-cv-8206

**NOTICE OF MOTION TO DISMISS PURSUANT TO FEDERAL RULE OF CIVIL
PROCEDURE 12(b)(2) AND 12(b)(5), OR IN THE ALTERNATIVE, STAY**

PLEASE TAKE NOTICE that upon the Declaration of Carmine D. Boccuzzi, dated November 13, 2020, the attached exhibits, the Declaration of Eliane Cristina Carvalho, dated November 13, 2020, the Declaration of Pedro Igor De Lima Soares, dated November 13, 2020, and the accompanying Memorandum of Law, Defendant Samarco Mineração S.A., by and through the undersigned attorneys, will move this Court before the Honorable John P. Cronan, U.S.D.J., at the Daniel P. Moynihan United States Courthouse located at 500 Pearl St., New York, NY 10007, at a date and time to be determined by the Court for an order pursuant to Federal Rule of Civil Procedure 12(b)(2) and 12(b)(5), dismissing this action, or in the alternative, a stay of these proceedings, and for such other and further relief as the Court deems appropriate. Pursuant to the Court's order dated October 30, 2020, Plaintiff's opposition papers, if any, are due on December 1, 2020.

Dated: November 13, 2020
New York, New York

Respectfully submitted,

/s/ Carmine D. Boccuzzi

Carmine D. Boccuzzi

(cboccuzzi@cgsh.com)

Lisa Vicens

(evicens@cgsh.com)

CLEARY GOTTlieb STEEN & HAMILTON LLP

One Liberty Plaza

New York, New York 10006

T: 212-225-2000

F: 212-225-3999

Attorneys for Defendant Samarco Mineração S.A.

cc: Antonio Perez-Marquez Timothy Graulich

Matthew Cormack

DAVIS POLK & WARDWELL LLP